

EXHIBIT D

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IN THE COURT OF COMMON PLEAS
BERKS COUNTY, PENNSYLVANIA

SHERIFF'S OFFICE
COUNTY OF BERKS

MATTHEW REYNOLDS,

CIVIL ACTION-LAW

Plaintiff;

Docket No.:

vs.

WILLERT MANUFACTURING COMPANY, LLC

447 Old Swede Rd,
Douglassville, PA 19518
(Berks County),

COMPLAINT IN CIVIL ACTION

Defendant.

Filed on behalf of Plaintiff:
MATTHEW REYNOLDS

Attorney of Record for this Party:
Steven Auerbach, Esquire
Law Office of Steven T. Auerbach
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Pa. I.D. #317309

IN THE COURT OF COMMON PLEAS OF
BERKS COUNTY, PENNSYLVANIA

MATTHEW REYNOLDS,	:	COURT OF COMMON PLEAS
Plaintiff;	:	BERKS COUNTY
	:	CIVIL DIVISION
vs.	:	
	:	No.
WILLERT MFG. CO., LLC,	:	
<u>Defendant.</u>	:	

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must within twenty (20) days enter a written appearance and file your defenses or objections to the claims set forth against you. You are warned that failure to do so will result in the case proceeding without you and a judgment may be entered against you for any money claimed in this complaint. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE OF THE PENNSYLVANIA BAR ASSOCIATION. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION REGARDING AGENCIES THAT OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE.

Berks County Bar Association
544 Court Street.
P.O. Box 1058
Reading, PA 19603
(610) 375-4591

IN THE COURT OF COMMON PLEAS OF
BERKS COUNTY, PENNSYLVANIA

MATTHEW REYNOLDS,	:	COURT OF COMMON PLEAS
Plaintiff;	:	BERKS COUNTY
	:	CIVIL DIVISION
vs.	:	
	:	No.
WILLERT MFG. CO., LLC,	:	
<u>Defendant.</u>	:	

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascantar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333 TTY (215) 451-6197

MATTHEW REYNOLDS,	:	COURT OF COMMON PLEAS
Plaintiff;	:	BERKS COUNTY
	:	CIVIL DIVISION
vs.	:	
	:	No.
WILLERT MFG. CO., LLC,	:	
<u>Defendant.</u>	:	

Plaintiff Matthew Reynolds (“Mr. Reynolds” or “Plaintiff”), by and through his undersigned counsel, the Law Office of Steven T. Auerbach, hereby files this Complaint against Defendant Willert Manufacturing Company, LLC (“Willert” or the “Defendant”)(together, the “Parties”), and in support thereof avers as follows:

1. This action is brought to remedy violations of civil rights as secured by the Pennsylvania Medical Marijuana Act, 35 P.S. § 10231 *et seq* (“MMA”)¹.

2. More specifically, Plaintiff seeks redress for wrongful termination related to his status as an individual certified to use medical marijuana.

3. Consequently, Plaintiff seeks injunctive and declaratory relief; economic, compensatory, and punitive damages; attorneys' fees, and all other appropriate relief pursuant to governing law.

4. Jurisdiction over the Parties in the Courts of the Commonwealth of Pennsylvania is proper pursuant to the provisions of 42 Pa.C.S. §5301 *et seq.* Specifically, jurisdiction as to the Defendant is proper pursuant to 42 Pa.C.S. §5301 (a)(2)(iii) by reason of “the carrying on of a

¹ A private right of action recognized by *Palmitter v. Commonwealth Health Sys.*, 2019 WL 6248350, at *13 (Pa. Com. Pl. Lackawanna Cnty. Nov. 22, 2019); *see also*, *Hudnell v. Thomas Jefferson Univ. Hosp., Inc.*, PICS No. 20-01621 (E.D. Pa. September 25, 2020)(collecting cases).

continuous and systematic part of its general business within this Commonwealth.” On information and belief, the Defendant operates a business in this Commonwealth and caused harm and compensable injury to the Plaintiff by acts or omissions committed in the Commonwealth of Pennsylvania in that is the subject of the present Complaint.

5. Venue is proper in the Berks County Court of Common Pleas under Pennsylvania Rules of Civil Procedure 2179 and 1006 inasmuch as the Defendant regularly conducts and solicits business in Berks County and inasmuch as the causes of action arose and/or a majority of the harm, occurrences, and transactions regarding the Plaintiff’s causes of action arose and/or took place at least in part in Berks County.

IV. PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult resident of Ephrata, Pennsylvania.

8. At all times relevant to this action, Plaintiff was an “employee” of the Defendant within the meaning of the MMA. And, at no point did Plaintiff’s employment duties to the Defendant involve the operation or physical control of chemicals, high-voltage electricity, or any other public utility.

9. At all times relevant to this action, Plaintiff was a “patient” within the meaning of the MMA insofar as he 1) suffered and continues to suffer from severe anxiety disorder; 2) has met the requirements for medical marijuana certification; and 3) is a resident of Pennsylvania.

10. At all times relevant to this action, Willert was the “employer” of Plaintiff within the meaning of the MMA.

11. Willert is a Pennsylvania for-profit corporation engaged in manufacturing services.

12. Willert has and continues to employ over 50 employees per calendar year for at least the last five (5) years, and engages in a variety of revenue-generating business activities.

13. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for the Defendant.

V. FACTUAL ALLEGATIONS

14. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

15. On October 16, 2020, and extending through November 5, 2020 (the "Term of Employment"), Plaintiff worked for Willert as a maintenance manager.

16. Throughout the Term of Employment, Plaintiff consistently demonstrated excellent performance and dedication to the Defendant. Plaintiff performed his job duties and responsibilities in a highly competent manner and has routinely received positive feedback.

17. Prior to the Term of Employment, Plaintiff was diagnosed with severe anxiety disorder.

18. In order to manage the symptoms of this condition, Plaintiff's physician prescribed a course of medical marijuana treatment.

19. Plaintiff then applied and received approval from the Pennsylvania Department of Health for a medical marijuana identification card for the purposes of lawfully obtaining medical marijuana.

20. After Plaintiff received his identification card, Plaintiff began purchasing medical marijuana from licensed Pennsylvania dispensaries and consuming it exclusively as medically directed and on non-working hours.

21. On October 28, 2020, Willert subjected Plaintiff to a pre-employment drug screen at Pottstown Hospital. Plaintiff reported for this drug screen, disclosed that he was a medical marijuana patient, and presented his unexpired medical marijuana card.

22. On November 3, 2020, the results of the drug screen (which indicated that Plaintiff had marijuana in his system) were presented to Willert.

23. Two (2) days later, and on November 5, 2020, Plaintiff's supervisor, Jack Bonsky terminated Plaintiff because he had failed the drug test.

24. Plaintiff asked that Willert reconsider its decision because he is a medical marijuana patient, but to no avail.

25. The Defendant terminated Plaintiff because he is a medical marijuana patient.

26. The Defendant's above-referenced actions are causally-connected to its discovery of Plaintiff's status as a medical marijuana patient by sequence, by an unusually-suggestive temporal proximity (within six days), and by direct supervisory statements.

27. Plaintiff believes, and therefore avers, that had he not been a member of protected class, he would not have been terminated.

28. Since his termination, and despite his best efforts, Plaintiff has been without employment.

29. Plaintiff's termination caused a loss of wage and otherwise detrimentally affected his mental health through feelings of depression and anxiety.

30. This termination would detrimentally affect a reasonable person in like circumstances.

COUNT I: REYNOLDS v. WILLERT MFG. CO., LLC
MMA- Wrongful Termination

31. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

32. By committing the foregoing acts of discrimination against Plaintiff, the Defendant has violated the MMA.

33. The Defendant unreasonably failed to prevent, remedy, and/or correct the Defendant's above actions.

34. The Defendant's wrongful acts were done with a reckless or callous disregard of, or indifference to, the rights and safety of the Plaintiff.

35. As a direct and proximate result of the Defendant's violation of the MMA, Plaintiff has suffered the damages and losses set forth herein including a loss of wage and mental distress and has incurred attorney's fees and costs.

36. The Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of the Defendant's discriminatory acts unless and until this Court grants the relief requested herein.

37. No previous application has been made for the relief requested herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter judgement in favor of Plaintiff and against the Defendant in an amount in excess of \$50,000.00; plus interest, punitive damages, costs and attorneys' fees.

Plaintiff further prays that this Court:

- a. Issue a declaratory judgment that the acts, policies, and practices complained herein are in violation of the MMA; and
- b. Enjoin the Defendant from continuing its acts, policies, and practices which violate the MMA; and
- c. Direct the Defendant to reinstate/promote Plaintiff to the position he would have occupied but for Defendant's unlawful conduct, making him whole for all earnings he

would have received but for the Defendant's unlawful conduct, including but not limited to wages, overtime, bonuses and other lost benefits; and

- d. Direct the Defendant to make Plaintiff whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, with interest, in amounts to be determined at trial in excess of \$50,000.00; and
- e. Direct the Defendant to make Plaintiff whole by providing compensation for past and future non-pecuniary losses caused by the above unlawful conduct, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial in excess of \$50,000.00; and
- f. Grant an award of costs of suit, expert fees and other disbursements, along with reasonable attorneys' fees;
- g. Grant an award of punitive damages against the Defendants for their violations of the MMA;
- h. Grant such other relief as the Court deems necessary and proper.

LAW OFFICE OF STEVEN T. AUERBACH

By: /s/ Steven T. Auerbach
Steven T. Auerbach, Esq.
822 Montgomery Ave.
Suite 210
Narberth, PA 19072
(215) 964-4410
Auerbach.Steven@gmail.com

Attorney for Plaintiff

Dated: February 2, 2021

IN THE COURT OF COMMON PLEAS OF
BERKS COUNTY, PENNSYLVANIA

MATTHEW REYNOLDS,
Plaintiff,

COURT OF COMMON PLEAS
BERKS COUNTY
CIVIL DIVISION

vs

No.

WHILFERT MFG. CO., LLC,
Defendant.

VERIFICATION

The undersigned hereby states that the statements of fact made in the foregoing document are true and correct to the best of my information and belief. The language of the document was prepared on the advice of my attorney and any legal claims or legal defenses asserted in the document are pleaded on the advice of my attorney. If the document contains averments which are inconsistent in fact, then I have been unable after reasonable investigation to ascertain which of the inconsistent averments are true, but to the best of my information and belief, one of them is true. I understand that false statements made herein are subject to the penalties of 28 U.S.C. §1746 relating to unsworn falsification to authorities.

Dated

02/01/2021

Matthew Reynolds
MATTHEW REYNOLDS

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

Berks

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons
☐ Transfer from Another Jurisdiction

- ☐ Petition
☐ Declaration of Taking

Lead Plaintiff's Name:
Matthew Reynolds

Lead Defendant's Name:
Willert Manufacturing Company, LLC

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☐ within arbitration limits
☒ outside arbitration limits
(check one)

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Steven Auerbach, Esquire

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

- ☒ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

SECTION

A

SECTION

B